

**TENTATIVE AGENDA
STATE AIR POLLUTION CONTROL BOARD MEETING
WEDNESDAY, NOVEMBER 5, 2003**

**COLLEGE CENTER
JAMES MADISON UNIVERSITY
HARRISONBURG, VIRGINIA**

Convene - 1:00 P.M.

- | | | | |
|---|--|--------------|---|
| I. High Priority Violators | | Dowd | A |
| II. Regulations | | | |
| | VOC Emission Standards (Rev. C02 - Final) | Mann | B |
| | Definition - Initial Performance Test (Rev. K03 Final) | Mann | C |
| | Hampton Roads VOC Emissions Control Area
(Rev. G02 - Final) | Sabasteanski | D |
| | Early Reduction Credit (Rev. C03 - Final) | Sabasteanski | E |
| | NOx Budget Trading Program - Flow Control
(Rev. H02 - Final) | Major | F |
| | Emissions Trading (Rev. F02 – Emergency) | Major | G |
| | Motor Vehicle Emissions in Northern Virginia
(Rev. MJ - Proposed) | Major | H |
| | Consumer Products (Rev. G03 - Proposed) | Mann | I |
| III. Public Forum | | | |
| IV. Other Business | | | |
| | Minutes (September 12, 2003) | Berndt | J |
| V. State Advisory Board on Air Pollution Reports | | | |
| | New Source Review Reform | | K |
| | PM2.5 Implementation | | L |
| | Public Participation | | M |

Adjourn

NOTE: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions or deletions. Questions arising as to the latest status of the agenda should be directed to Cindy M. Berndt at (804) 698-4378.

HIGH PRIORITY VIOLATORS (HPVs) FOR THE THIRD QUARTER, 2003

TABLE A – ACTIVE CASES

Facility Name and location	Brief Description	Status
Covanta Alexandria Arlington, Inc., Arlington (MSW incinerator) (NRO)	Alleged emission exceedances and failure to keep certain records in violation of PSD permit	NOV issued 4/18/02; Consent Order dated 3/20/03 imposed a civil fine of \$14,695 (in bankruptcy – fine not paid)
Covanta	Alleged burning of non-MSW	NOV issued 4/1/03; pending

Alexandria Arlington, Inc., Arlington (MSW incinerator) (NRO)	industrial material in violation of permit requirements	
Covanta Fairfax, Inc., Fairfax (MSW incinerator) (NRO)	Alleged burning of non-MSW industrial material in violation of permit requirements	NOV issued 4/1/03; pending
Potomac River Generating Station/Mirant, Alexandria (NRO)	Alleged exceedance of ozone season NOx emissions limit contained in state operating permit	NOV issued 9/10/01; pending
Chaparral Steel Co., Dinwiddie County (PRO)	Alleged by-passing of pollution control device and exceedances of mercury, NOx, and CO emissions limits	NOV issued 3/24/03; pending
Burlington Industries, Inc., Hurt, Campbell County (textile manufacturer) (NRO)	Alleged violation of particulate emissions limit in stack test taken 12/21/02 and failure to properly maintain pollution control equipment	NOV issued 3/6/03; subsequent stack test taken 5/30/03 indicated compliance; resolution of civil fine pending
Goodyear Tire and Rubber Co., Danville (SCRO)	Failure to conduct stack test on banbury mixer w/in 180 days of issuance of Title V permit	NOV issued 7/17/03; pending
Consolidation Coal Company, Buchanan County (coal mine) (SWRO)	Alleged exceedance of VOC emissions limit contained in PSD and Title V permits for thermal dryer located at mine #1	NOV issued 8/22/03; pending
Owens-Brockway Glass Container, Inc., Toano, James City County (TRO)	Alleged modification to furnace (upgrading/addition of electric boosting) in violation of PSD requirements	NOV issued 9/27/01; Consent Order dated 11/22/02 imposed civil fine of \$216,456, a SEP (cullet conveying system), and numerous pollution control and monitoring requirements
Valley Proteins, Inc., Winchester (rendering facility) (VRO)	Alleged installation of new cooker in violation of PSD requirements	NOV issued 2/4/03; Consent Order dated 4/4/03 imposed civil fine of \$30,136 and requirement to obtain synthetic minor permit (the permit was issued 4/3/03; Valley Proteins has appealed the permit on grounds unrelated to the allegations settled in the consent order)
Ethan Allen Inc.,	Numerous alleged violations of Title	NOV issued 7/7/03: pending

Dublin, Pulaski County (furniture manufacturer) (WCRO)	V permit and MACT requirements with respect to recordkeeping, monitoring, operating conditions	
Magnox Pulaski Inc., Pulaski, Pulaski County (magnetic tape manufacturer) (WCRO)	Numerous alleged violations of Title V permit recordkeeping and monitoring requirements	NOV issued 5/8/03; pending
Southern Finishing Co., Martinsville, Henry County (furniture manufacturer) (WCRO)	Alleged operation of unpermitted spray booth, improperly maintained air pollution control equipment, and numerous MACT violations	NOV issued 5/27/03; pending
Volvo Trucks North America, Inc., Dublin, Pulaski County (heavy truck manufacturer) (WCRO)	Alleged by-passing of pollution control device without notice and failure to maintain certain records required by Title V permit	NOV issued 6/19/03; pending
Wolverine Gasket Division – Cedar Run Plant, Blacksburg, Montgomery County (automotive parts manufacturer) (WCRO)	Alleged by-passing of pollution control equipment and failure to properly maintain pollution control system	NOV issued 3/19/03; pending

* **Table A includes the following categories of HPV cases:**

- 1) Those initiated by a Notice of Violation (NOV) issued prior to or during the third quarter of 2003 that have not been settled by Consent Order, and;**
- 2) Those settled by Consent Order prior to or during the third quarter of 2003 where the alleged violated has not complied with all of the terms of the Consent Order.**

TABLE B – RESOLVED CASES

Facility Name and location	Brief Description	Status
Combined Heat and Power, Inc., (INGENCO), Rockville, Hanover County (electric power plant) (PRO)	Alleged construction of emission units prior to receiving a permit; failure to conduct performance testing within permitted timeframe; and violation of CO emission limits	NOV issued 3/24/03; Consent Order dated 8/07/03 imposed civil fine of \$11,400
INGENCO, Inc., Dinwiddie County (electric power)	Alleged construction of emission units prior to receiving a permit; alleged failure to conduct	NOV issued 4/11/03; Consent Order dated 8/12/03 imposed civil file of \$11,400

plant) (PRO)	performance testing within permitted timeframe; alleged violation of CO emission limits	
Global Stone James River, Inc., Buchanan, Bedford County (quarry) (WCRO)	Alleged fugitive dust violations	NOV issued 5/19/03; Consent Order dated 9/30/03 imposed civil fine of \$7,770
Martinsville Thermal, LLC, Rideway, Henry County (WCRO)	Alleged failure to maintain records of monthly emissions calculations for criteria pollutants as required by Title V permit	NOV issued 8/18/03; Consent Order dated 10/14/03 imposed civil fine of \$1,400

**** Table B includes HPV cases resolved by Consent Order during the third quarter of 2003 where the alleged violator has complied with substantially all of the terms of the Consent Order.**

VOC Emission Standards (9 VAC 5 Chapter 40, Rev. C02): The Metropolitan Washington Air Quality Committee (MWAQC) has recommended that Maryland, Virginia, and Washington, DC, adopt regulations for portable fuel container spillage control, solvent cleaning, mobile equipment repair and refinishing, and architectural and industrial maintenance coatings in order to achieve the necessary reductions of VOC emissions in the Northern Virginia area. The department is requesting approval of draft final regulation amendments that meet federal statutory and regulatory requirements. The proposed regulatory action will add the following new sections: Portable Fuel Container Spillage Control (Rule 4-42); Solvent Cleaning (Rule 4-47); Mobile Equipment Repair and Refinishing (Rule 4-48); and Architectural and Industrial Maintenance Coatings (Rule 4-49).

Definition of "initial performance test" (Rev. K03): The definition of "initial performance test" was added by a regulatory action originally adopted by the State Air Pollution Control Board on May 21, 2002, with an effective date of August 1, 2002. The regulation was then submitted to U.S. EPA as a State Implementation Plan (SIP) revision on July 1, 2003. During its SIP approval review, EPA identified an error in the definition which would preclude its approval. The error, shown below, consists of using the word "for" instead of the correct word "or."

"Initial performance test" means the test required by 40 CFR Part 60 ~~for~~ or a permit issued pursuant to 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.) for determining initial compliance with standards of performance or permit limitations. Initial performance tests shall be conducted in accordance with 9 VAC 5-50-30.

During the internal review of the definition, other issues related to clarity of the definition surfaced. In order to address these issues, other changes have been made to improve the clarity of the definition; however, these changes do not alter the substance of its meaning. Because EPA agrees that this is a technical error, they have indicated that they would accept a revision of the definition without the change undergoing public participation or comment, if an official record of the change is made and maintained. The Department is requesting approval of draft final regulation amendments that meet federal statutory and regulatory requirements.

Consumer Products (9 VAC 5 Chapter 40, Rev. G03): The Metropolitan Washington Air Quality Committee (MWAQC) has recommended that Maryland, Virginia, and Washington, D.C., adopt regulations for consumer products in order to achieve the necessary reductions of VOC emissions in the Northern Virginia area. The Department is requesting approval of a proposal for public comment that meets federal statutory and regulatory requirements. The proposed regulatory action will add a new rule, Emission Standards for Consumer Products in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4-50). The provisions of this rule apply to those persons who sell, supply, offer for sale, or manufacture for sale any consumer product that contains volatile organic compounds. Exempted from the regulation is any consumer product manufactured in the Northern Virginia volatile organic compound emissions control area for shipment and use outside of this area. The provisions of this regulation shall not apply to a manufacturer or distributor who sells, supplies, or offers for sale a consumer product that does not comply with the VOC standards as long as the manufacturer or distributor can demonstrate

both that the consumer product is intended for shipment and use outside of the Northern Virginia volatile organic compound emissions control area, and that the manufacturer or distributor has taken reasonable prudent precautions to assure that the consumer product is not distributed to the Northern Virginia volatile organic compound emissions control area. A number of product-specific exemptions are also allowed. The rule specifies a compliance deadline of January 1, 2005.

Early Reduction Credit (9 VAC 5 Chapters 20 and 40, Rev. C03): EPA has implemented a policy whereby areas that currently meet the 1-hour ozone standard but do not meet the new 8-hour ozone standard may reduce their emissions and thus avoid designation as nonattainment. To afford these areas the opportunity to participate in the program, the applicability of VOC and NO_x control standards is being expanded to include these areas. Additionally, a number of areas that will be subject to the new nonattainment area requirements have been included in order for them to be able to implement controls for their nonattainment plans. The Department is requesting approval of draft final regulation amendments that meet federal statutory and regulatory requirements.

NO_x Budget Trading Program-Flow Control (9 VAC 5 Chapter 140, Rev. H02): The purpose of the regulation is to establish general provisions addressing applicability, permitting, allowance allocation, excess emissions, monitoring, and opt-in provisions to create a Virginia NO_x Budget Trading Program as a means of mitigating the interstate transport of ozone and nitrogen oxides in order to protect public health and welfare. Provisions in the current NO_x Budget Trading Program mandate that flow control begin in 2006. EPA has made a preliminary finding that the year for starting flow control does not meet federal requirements and must be changed to 2005 or Virginia may face federal disapproval of its NO_x SIP Call regulation. The Department is recommending an amendment to the Virginia regulation that will change the year for start of flow control to 2005 as mandated by EPA.

Emissions Trading, Virginia NO_x Budget Trading Program (9 VAC 5 Chapter 140, Rev. F02): The regulation establishes a NO_x Budget Trading Program as a means of mitigating the interstate transport of ozone and nitrogen oxides. The regulation includes the following provisions: applicability, permitting, allowance methodology, monitoring, banking, compliance supplement pool, compliance determination and opt-in provisions for sources not covered by the regulation. Electric generating units (EGUs) with a generating capacity greater than 25 MWe and non-electric generating units (nonEGUs) with a heat input capacity greater than 250 mmBtu will be subject to the provisions of the regulation.

The regulation includes provisions which establish a new source set-aside budget in the amount of 1,855 tons each year for first five years (2004-2008); 1,342 tons each year thereafter. The Appropriations Act includes a provision to enable the auctioning of NO_x emission credits. Subsection D of Item 383 of Chapter 1042 of the 2003 Acts of Assembly indicates that the Department of Environmental Quality may auction the NO_x emissions credits allocated under the NO_x SIP Call as set-asides for new sources. Under the current regulation, distribution of set-aside is limited to newly permitted Virginia industries on a pro-rata basis.

The Department is recommending that the Board adopt emergency regulation amendments concerning the auctioning of the new source set-aside budget in order that the Commonwealth may be able to meet its obligations under the Appropriations Act in a timely manner.

Regulation for the Control of Motor Vehicle Emissions in Northern Virginia, Remote Sensing (9 VAC 5 Chapter 91, Rev. MJ): The current program requires that affected vehicles be presented to emissions inspection stations biennially to receive an emissions inspection. Vehicles which fail the test are denied motor vehicle registration until inspection has been accomplished. Retests, after failure and repair, are free if accomplished within 14 days of the test and performed by the emissions inspection station which performed the initial test. If a motorist wishes to request a waiver of the test, an expenditure of at least \$450 on emissions-related repairs is required. The cost amount is adjusted each January by applying the Consumer Price Index released the previous fall by the federal government. The geographic coverage of the program consists of the counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. The Department is requesting approval of a proposal for public comment that meets federal statutory and regulatory requirements.

The proposed amendments make a number of revisions to conform to changes in Virginia law pertaining to remote sensing. In general, the regulation needs to be amended to reflect new emission standards detected via remote sensing as well as criteria for conduction random testing of motor vehicle emissions, procedures to notify owners of test results, assessment of civil charges for noncompliance with emissions standards in the current regulation and a subsidy to assist in the repair of certain vehicles. Two specific changes to the regulation as a result of changes to the state code include the change in the model year coverage for vehicles subject to remote sensing (§ 46.2-1178.1) to include model year 1968 and newer model vehicles, and the requirement to establish a program to subsidize repair costs of some vehicles identified by remote sensing (§ 46.2-1178.2).

Hampton Roads VOC Emissions Control Area (9 VAC 5 Chapter 20, Rev. G02): Since the initial regulatory promulgation of the volatile organic compounds emissions control areas in 1979, James City County, York County, Poquoson City, and Williamsburg City have been exempt from the emission standards for VOCs in 9 VAC 5 Chapter 40. These standards apply to existing sources conducting activities such as asphalt application, solvent metal cleaning, metal can coating, and graphic arts operations. Originally, these four jurisdictions were determined to be too rural to make a significant contribution to air pollution in the area. Two decades later, however, they have undergone significant development and are no longer rural. In light of the Hampton Roads area's violation of the 1-hour ozone standard, the exemption of these jurisdictions from the VOC emission standards must be now rescinded. The Department is requesting approval of draft final regulation amendments that meet federal statutory and regulatory requirements.